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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,892	12/15/2000	Mark G. Obukowicz	3374 (PHA 4140)	2003
321	7590 07/15/2002	i ! E		
SENNIGER POWERS LEAVITT AND ROEDEL		AND ROEDEL	EXAMINER	
ONE METROPOLITAN SQUARE 16TH FLOOR	<u>;</u>	MELLER, M	ICHAEL V	
ST LOUIS, 1	MO 63102	*	ART UNIT	PAPER NUMBER
İ		Į.	1651	
; ;		•	DATE MAILED: 07/15/2002	10

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application N .	Applicant(s)
Office Action Summary		09/737,892	OBUKOWICZ ET AL.
		Examiner	Art Unit
		Michael V. Meller	1651
Period fo	The MAILING DATE of this communication app r Reply	ears on the cover sheet with	the correspondence address
THE M - Exten after: - If the - If NO - Failur - Any re	DRTENED STATUTORY PERIOD FOR REPLY MAILING DATE OF THIS COMMUNICATION. sions of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a reply period for reply is specified above, the maximum statutory period version to reply within the set or extended period for reply will, by statute eply received by the Office later than three months after the mailing dipatent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply within the statutory minimum of thirty (3 will apply and will expire SIX (6) MONTHS, cause the application to become ABANI	be timely filed 0) days will be considered timely. 6 from the mailing date of this communication. DONED (35 U.S.C. § 133).
1)⊠	Responsive to communication(s) filed on 29 A	April 2002 .	
2a)⊠	This action is FINAL . 2b) ☐ Th	is action is non-final.	
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
Dispositi	on of Claims		
4)🖂	Claim(s) 1-93 is/are pending in the application	i.	
•	4a) Of the above claim(s) <u>6-34,36 and 38-77</u> is	/are withdrawn from consider	ration.
5)[Claim(s) is/are allowed.		
6)⊠	Claim(s) <u>1-5,35,37 and 78-93</u> is/are rejected.	•	
7)	Claim(s) is/are objected to.		
8)□	Claim(s) are subject to restriction and/o	r election requirement.	
Applicati	on Papers	,	
9)[The specification is objected to by the Examine	r.	
10) 🗌 🗆	The drawing(s) filed on is/are: a)□ accep	oted or b) objected to by the	Examiner.
	Applicant may not request that any objection to the		
11) 🔲 🗆	The proposed drawing correction filed on	- , ,,	pproved by the Examiner.
🗔 -	If approved, corrected drawings are required in rep	•	
	The oath or declaration is objected to by the Ex	aminer.	
_	nder 35 U.S.C. §§ 119 and 120		
_	Acknowledgment is made of a claim for foreigr	n priority under 35 U.S.C. § 1	19(a)-(d) or (f).
a) All b) Some * c) None of:			
Certified copies of the priority documents have been received.			
2. Certified copies of the priority documents have been received in Application No			
	 Copies of the certified copies of the prior application from the International Bu ee the attached detailed Office action for a list 	reau (PCT Rule 17.2(a)).	· ·
14)∐ A	cknowledgment is made of a claim for domesti	c priority under 35 U.S.C. § 1	19(e) (to a provisional application).
	☐ The translation of the foreign language procedures the community of the translation of the foreign language procedures to the community of	- · ·	
Attachment	-	. ,	
2) Notice	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s) 7	5) Notice of Info	nmary (PTO-413) Paper No(s) rmal Patent Application (PTO-152)

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DETAILED ACTION

Election/Restrictions

The election of species of record is noted. Claims 6-34, 36, 38-77 do not read on the elected species.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1-5, 35, 37, 78, 79, 81, 85-93 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 248215.

Claim 1 recites that a organic extract of an edible plant (of which applicant elected, *Vitex agnus-castus*) is administered to an organism. The extract of the reference when administered to a patient will inherently perform the effect of claim 1 since it is the same product given to a patient. The patient in the claim is the same patient as is in the reference. The claim does not distinguish between the patients. The extract of the reference when administered to a patient will indeed selectively inhibit COX-2 since it is the same extract as instantly claimed.

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Claims 1-5, 35, 37 and 78-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 248,215 taken with Hawley's Condensed Chemical Dictionary.

Applicant again seems to be arguing the same points. Thus, the above comments are reiterated here.

Claims 1-5, 35, 37, and 78-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2000236835 (JP) in view of EP 248215 (EP) and Hawley's Condensed Chemical Dictionary.

Applicant again seems to be arguing the same points. Thus, the above comments are reiterated here.

Additionally applicant states that JP has other ingredients in its composition, but applicant's claims are not limited to only *Vitex agnus-castus*.

Further, applicant states that the skilled artisan would not assume that a composition useful for treating cancer would be similarly useful for treating COX-2 mediated diseases but this is simply false. It is well known in the art that inhibiting COX-2 is an important strategy in treating cancer as is evident in Subbaramaiah et al. (reference 76, supplied by applicant). It discusses that compounds that are known to be useful for cancer treatment are also effective in inhibiting COX-2. Thus, there is further clear motivation to use the extract for the claimed purpose.

Thus, the claims are properly rejected.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Meller whose telephone number is 703-308-4230. The examiner can normally be reached on Monday thru Friday: 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 703-308-4743. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0294 for regular communications and 703-308-0294 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

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	Michael V. Meller	

Examiner
Art Unit 1651

MVM July 11, 2002